

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

THE STATE OF TEXAS, et al.,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Civil Action No. 4:20-cv-00957-SDJ

EXHIBIT 8

**PLAINTIFF STATES' OPENING BRIEF TO THE SPECIAL MASTER
FOR THE FEBRUARY 22, 2024 HEARING**

January 16, 2024

Via E-mail

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Re: *The State of Texas, et al. v. Google LLC*, Case No. 4:20-cv-00957-SDJ (E.D. Tex.)

Dear Counsel:

We write regarding the production of linked files pursuant to Appendices J and D of the Order regarding Discovery Procedure (“ESI Protocol”), which the Court entered on December 13, 2023 (ECF 183), and which mirrors the same appendices in the MDL ESI Protocol. For reference, we have copied the relevant appendix excerpts at the end of this Letter.

Under the ESI Protocol, Google is required to “conduct an automated search across all emails to be produced, where the producing party has access to a tool capable of performing such an automated search, to identify any emails that contain links to another document and will conduct a reasonable search for the document corresponding with each identified link.” Further, “[a]

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receiving party may also make reasonable and proportionate requests that the producing party conduct a reasonable search for relevant documents identified via hyperlinks.”

Pursuant to the ESI Protocol, the States request that Google conduct a reasonable search for and produce all linked documents that appear in each of the documents, listed by beginning Bates Number in the spreadsheet attached as **Appendix 1** to this Letter. The States’ request as to the 5,811 documents listed in Appendix 1 is reasonable and proportionate, given Google’s production of close to 6 million documents in this case. The listed documents primarily reference internal Google “go/” and other internal Google linked documents. We understand from our meet and confers with Google’s counsel that it is reasonable and feasible for Google to search for and produce internal Google linked documents, as compared with external links. Google is also required under Appendices J and D of the ESI Protocol to produce with all produced linked documents: “DOC LINK metadata,” “tying linked and linking documents.”

The States request that Google provide a response by **January 23, 2024**, on whether Google agrees to conduct the searches for, and then produce if found, the requested linked documents and/or the required metadata. The States request that Google also provide them a timeline of when that production will occur. The States are generally available to meet and confer, and intend to raise any remaining issues with the Judge and/or Special Master. The lack of linked documents and/or the required metadata identifying the linked documents (akin to producing emails without identification or production of their attachments) has hindered the States’ review of documents and preparation for depositions, making it difficult and prejudicial to the States to schedule depositions without the ability to review all relevant documents.

As Google’s productions and the States’ review of them are all ongoing, the States reserve (without any waiver of) the right to request the search for and production of additional linked documents identified during the States’ ongoing review of Google’s productions.

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Sincerely,

/s/ Zeke DeRose III .

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ESI Protocol at 24, App'x J

J. Linked Files and Collaborative Work Environments. For documents responsive to properly propounded requests issued pursuant to Fed. R. Civ. P. 34 or 45, the producing party shall conduct an automated search across all emails to be produced, where the producing party has access to a tool capable of performing such an automated search, to identify any emails that contain links to another document and will conduct a reasonable search for the document corresponding with each identified link. A receiving party may also make reasonable and proportionate requests that the producing party conduct a reasonable search for relevant documents identified via hyperlinks. For each link identified by the receiving party, the producing party shall conduct a reasonable search for the document corresponding with the link. The producing party shall process and produce relevant documents corresponding with the links with reasonably available metadata. For documents produced pursuant to this Appendix J, the producing party is not required to conduct any further search of documents corresponding with the links. The provisions of this Appendix J apply to any type of document (including emails, presentations, spreadsheets, and other types of documents). For documents produced pursuant to this Appendix J, the producing party shall produce DOC LINK metadata as defined in Appendix D.

ESI Protocol at 19, App'x D

... each of the metadata and coding fields set forth below that can be extracted shall be produced for each document, to the extent reasonably practicable. . . .

DOC LINK	Metadata tying linked and linking documents, per Section J, below.
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